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CONNECTICUT GENERAL ASSEMBLY

January Session, 2011

Raised Bill No. 6453

An Act Concerning Grandparents' Visitation Rights

Referred to Committee on Aging

REMARKS OF ATTY. MICHAEL H. AGRANOFF

Thank you for the opportunity to testify. I have been a DCF defense lawyer since 1991, and have seen first-hand the harm that comes when parents deny visitation to grandparents and certain other relatives. On the other hand, I have seen harm arise when relatives interfere in parent/child matters for personal reasons. The U.S. Supreme Court attempted to strike a balance in *Troxel v. Granville* (2000), which the Connecticut Supreme Court adopted in *Roth v. Weston*. The present bill would codify the *Roth* decision, and perhaps bring order to the field.

There are two problems, however, which I believe should be corrected.

The first and easiest is the title of the bill. It is entitled as an act "concerning grandparents' visitation rights", because the *Troxel* case concerned grandparents, and grandparents are the ones usually involved in this type of litigation. However, the bill itself says

nothing of grandparents, and indeed may apply to other relatives (such as aunts and uncles), and conceivably even to non-relatives. It seems preferable to re-title the bill as "an act clarifying the visitation rights of non-parents."

Indeed, a reading of the language of the bill makes it clear that that is exactly what it is.

The bill properly states, in accordance with the court decisions, that the right of visitation by a non-parent, over the objection of a parent, depends upon two things: the existence of a parent-like relationship with the child; and the likelihood of real and substantial harm to the child if visitation is denied. However, the bill inexplicably deletes the current sentence that directs the court to be guided by the best interest of the child.¹

And that is the second problem. The bill, as written, seems to prescribe a mechanical test for determining non-parent visitation over a parent's objection. Giving due weight to the rights and feelings of grandparents, which surely inspired this bill, and noting that I am a grandparent myself, the best interest of the child must be considered. Deleting that provision would likely cause more harm and confusion than is immediately apparent.

Leaving in the provision simply states that visitation, as it is in every other context, is guided by the best interest of the child; except that it may not constitutionally be denied, even if a parent objects, if the non-parent has met the two criteria. In other words, the non-parent must meet the two criteria, and then the best interest of the child will be considered. This is a common-sense resolution, and is in accord with constitutional requirements.

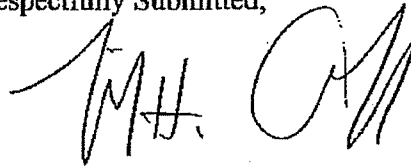
We do not want to interfere with intact families, nor do we want to punish children if the parents and relatives are squabbling. Dealing with such family problems is exactly what judges

¹ "In making, modifying or terminating such an order, the court shall be guided by the best interest of the child, giving consideration to the wishes of such child if he is of sufficient age and capable of forming an intelligent opinion."

do. By changing the title of the bill, and by retaining the consideration of best interest, we help families and do justice.

I will be glad to discuss my thoughts with any legislator or legislative aide who wishes to do so.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'M.H. Agranoff', written in a cursive style.

MICHAEL H. AGRANOFF

Attorney At Law

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